

DEPARTMENT OF LAND AND NATURAL RESOURCES

**Adoption of Chapter 13-277
Hawaii Administrative Rules**

October 31, 2002

SUMMARY

**Chapter 13-277, Hawaii Administrative Rules,
entitled "Rules Governing Requirements for
Archaeological Site Preservation and Development",
is adopted.**

HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 13

STATE HISTORIC PRESERVATION DIVISION RULES

CHAPTER 277

**RULES GOVERNING REQUIREMENTS FOR ARCHAEOLOGICAL SITE
PRESERVATION AND DEVELOPMENT**

§13-277-1	Policy and purpose
§13-277-2	Definitions
§13-277-3	Preservation plan
§13-277-4	Buffer zones
§13-277-5	Interim protection measures
§13-277-6	Long term preservation measures
§13-277-7	Interpretation requirements
§13-277-8	Penalty

§13-277-1 Policy and purpose. This chapter provides standards for preservation approaches to ensure proper preservation in the public's interest. [Eff] (Auth: HRS §6E-3) (Imp: HRS §§6E-3, 6E-7, 6E-8, 6E-42)

§13-277-2 Definitions. As used in this chapter unless the context requires otherwise:

"Agency" means any state or county governmental entity.

"Consultation process" means notifying interested organizations and individuals that a project could affect historic properties of interest to them; seeking their views on the identification, significance evaluations, and mitigation treatment of these properties; and considering their views in a good faith and appropriate manner during the review process.

"Historic property" means any building, structure, object, district, area, or site, including heiau and underwater site, which is over fifty years old.

"Interpretation" means the presentation of information about an historic property to the public.

"Mitigation" means the measures taken to minimize impacts to significant historic properties. Mitigation may take different forms, including, but not limited to, preservation, archaeological data recovery, reburial, ethnographic documentation, historic data recovery, and architectural recordation.

"Person" means any individual, firm, association, agency, organization, partnership, estate, trust, corporation, company, or governmental unit that is proposing a project.

"Preservation" means the mitigation form in which a historic property is preserved.

"Project" means any activity directly undertaken by the state or its political subdivisions or supported in whole or in part through appropriations, contracts, grants, subsidies, loans, or other forms of funding assistance from the state or its political subdivisions or involving any lease, permit, license, certificate, land use change, or other entitlement for use issued by the state or its political subdivisions.

"Project area" means the area the proposed project may potentially affect, either directly or indirectly. It includes not only the area where the project will take place, but also the proposed project's area of potential effect.

"Significant historic property" means any historic property that meets the criteria of the Hawaii register of historic places or the criteria enumerated in subsection 13-275-6(b) or 13-284-6(b).

"State historic preservation division" or "SHPD" means the state historic preservation division within the state department of land and natural resources.

[Eff] (Auth: HRS §6E-3) (Imp:
HRS §§6E-1, 6E-3, 6E-7, 6E-8, 6E-42)

§13-277-3 Preservation plan. A preservation plan prepared pursuant to chapters 13-275 or 13-284, shall:

- (1) Identify for each significant historic property which forms of preservation will be implemented: avoidance and protection (conservation), stabilization, rehabilitation, restoration, reconstruction, interpretation, or appropriate cultural use;

- (2) Specify the buffer zones around each significant historic property and depict them on a map of sufficient scale;
- (3) Specify short-term protection measures for each significant historic property that will be within or near a construction area;
- (4) Discuss the agency or person's consultation process for historic properties deemed significant under paragraphs 13-275-6(b)(5) or 13-284-6(b)(5). The agency or person shall consult with ethnic organizations and individuals for whom the historic properties are of significance. The comments on preservation treatment expressed by these individuals or organizations shall be considered when preparing the preservation plan. The plan shall include a list of individuals and organizations consulted, and shall summarize their input.
- (5) Specify the long term preservation measures to be undertaken at each significant historic property. [Eff
(Auth: HRS §6E-3) (Imp: HRS §§6E-1, 6E-3, 6E-7, 6E-8, 6E-42)]

§13-277-4 Buffer zones. (a) Buffer zones shall ensure that the integrity and context of the historic property is preserved, in many cases including the visual integrity.

(b) The size of a buffer zone shall be proposed by the person or agency on a site-by-site basis. Size will vary with the local terrain, eventual use of the site, surrounding land uses, the type of site, and the criterion for which a site is significant.

(c) The manner in which a buffer zone will be treated with regards to demarcation, landscaping and other activities shall be proposed by the person or agency on a site-by-site basis.

(d) Once approved, buffer zones shall be marked on overall project maps, and physical markers shall be placed in the ground delineating the buffers. [Eff
(Auth: HRS §6E-3) (Imp: HRS §§6E-1, 6E-3, 6E-7, 6E-8, 6E-42)]

§13-277-5 Interim protection measures. Interim protection measures shall protect the significant

historic property and its buffer zone during construction activities. Interim measures may include:

- (1) Flagging the perimeter of the buffer zone;
- (2) Erecting barriers (such as plastic fencing) along the buffer zone;
- (3) Placing avoidance instructions on construction plans and specifications;
- (4) On-site, pre-construction briefing of the hired construction firm; and
- (5) Having an archaeological monitor on-site during ground alteration activities. [Eff] (Auth: HRS §6E-3)
(Imp: HRS §§6E-3, 6E-7, 6E-8, 6E-42)

§13- 277- 6 Long term preservation measures.

Long term preservation measures shall follow the appropriate Secretary of the Interior's Standards for Historic Preservation Projects. The preservation plan shall address the following long term preservation measures:

- (1) Maintenance measures to be followed;
- (2) Methods for clearing vegetation;
- (3) The manner in which litter is controlled;
- (4) Access to the site and possible use of the site for cultural practices, if appropriate;
- (5) Approaches to interpret and inform the public about the site, if appropriate;
- (6) Permanent marked markers, if appropriate;
- (7) If appropriate, provisions to address potential future impacts and site stability; and
- (8) Provisions for reasonable monitoring of site integrity by the person or agency, and SHPD inspection to assure compliance. [Eff] (Auth: HRS §6E-3)
(Imp: HRS §§6E-3, 6E-7, 6E-8, 6E-42)

§13- 277- 7 Interpretation requirements. (a)

When using interpretive text for signs, brochures, etc., the text shall be reviewed and approved by SHPD.

- (b) Interpretive signs shall be:
 - (1) Of sufficient quality to enhance public understanding of the site;
 - (2) Culturally sensitive, based on consultation with appropriate organizations and individuals; and

(3) Located so as not to adversely affect the site visually.

(c) Any data recovery work to improve the interpretation of the site shall meet the standards set forth in chapter 13-278. [Eff]
(Auth: HRS §§6E-1, 6E-3, 6E-7, 6E-8, 6E-42) (Imp: HRS §§6E-3, 6E-7, 6E-8, 6E-42)

§13-277-8 Penalty. Non-compliance with the provisions and procedures established by this chapter may result in a directive to the person not to proceed with construction in the project area, a denial or revocation of SHPD's written concurrence or agreement, and penalties as provided in section 6E-11, HRS, chapters 13-275, 13-278, 13-281, 13-282, 13-284, HAR, and applicable laws. [Eff] (Auth: HRS §6E-3) (Imp: HRS §§6E-1, 6E-3, 6E-8, 6E-42)

DEPARTMENT OF LAND AND NATURAL RESOURCES

Chapter 13-277, Hawaii Administrative Rules, on the Summary Page dated October 31, 2002, was adopted November 15, 2002, following public hearings held on the islands of Kauai on August 20, 2002, Hawaii on August 21 and 22, 2002, Maui on August 26, 2002, Molokai on August 27, 2002, Oahu on August 28, 2002, and Lanai on August 29, 2002, after public notice was given in the Honolulu Star Bulletin, Hawaii Tribune Herald, West Hawaii Today, Maui News, and the Garden Isle on July 21, 2002.

The adoption of chapter 13-277 shall take effect ten days after filing with the Office of the Lieutenant Governor.

Peter T. Young,
Chairperson
Board of Land and Natural
Resources

APPROVED:

Linda Lingle, Governor
State of Hawaii

Dated: _____

APPROVED AS TO FORM

Deputy Attorney General

Filed